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M E M O R A N D U M

NOVEMBER 21, 1985

TO: BOSTON REDEVELOPMENT AUTHORITY AND
STEPHEN COYLE, DIRECTOR

FROM: JAMES ENGLISH, SENIOR PROJECT COORDINATOR
KELLY D. KING, ASSISTANT GENERAL COUNSEL

SUBJECT: FOURTH AMENDMENT TO THE REPORT AND DECISION ON THE
CHAPTER 121A APPLICATION OF IMMOBILIARE NEW ENGLAND
CHARLESTOWN URBAN RENEWAL AREA

On April 13, 1978, the Authority voted to adopt a Report and Decision (the "Report and Decision") on the Application of Immobiliare New England ("Immobiliare") for approval of a project in the Charlestown Navy Yard under Chapter 121A of the General Laws of Massachusetts and Chapter 652 of the Acts of 1960, both as then amended. A First Amendment, creating "Building 42 Associates" was approved by the Authority on May 17, 1979.

On December 10, 1984 Immobiliare and Barkan Properties filed an application for a Second Amendment to the Report and Decision requesting therein approval of Building 103 Associates Limited Partnership ("Building 103 Associates"), as a 121 A entity to undertake and develop Parcel 3A of the Project Area into 111 apartments for the moderate income elderly plus a superintendant's apartment.

On February 20, 1985, the Authority voted to adopt a Second Amendment to the Report and Decision (the "Second Amendment") which approved the development of Parcel 3A and consented to the formation of Building 103 Associates to undertake such development.

On April 18, 1985, the Authority voted to adopt a Third Amendment to the Report and Decision (the "Third Amendment") which approved zoning deviations necessary for the development of Parcel 3A.

November 21, 1985

Subsequent to these amendments, Immobiliare completed construction of project phases IV, IV-A and VI-A specifically the Shipways II condominiums, the Shipways Garage and the Pier 8 Marina. The amendment for which approval is now requested grants the required zoning deviations for the development of the previously approved marina, garage and commercial spaces associated with these phases of the project. It is recommended, therefore, that the Authority approve the attached Fourth Amendment to the Application and Report and Decision which specifically indentifies the requested deviations and the current configurations and areas of the parcels in these Phases.

In the opinion of the Legal staff, the Fourth Amendment does not represent a fundamental change and does not require a public hearing.

Appropriate Vote follows:

VOTED: That the document presented at this meeting entitled "Fourth Amendment to the Report and Decision of the Application and Approval of a Project under General Laws Chapter 121 A and Chapter 652 of the Acts of 1960, Both As Amended," be and hereby is approved and adopted.

FOURTH AMENDMENT TO THE REPORT AND DECISION ON THE APPLICATION
OF IMMOBILIARE NEW ENGLAND FOR THE AUTHORIZATION AND APPROVAL
OF A PROJECT UNDER MASSACHUSETTS GENERAL LAWS CHAPTER 121A AND
CHAPTER 652 OF THE ACTS OF 1960, BOTH AS AMENDED

On April 13, 1978, the Boston Redevelopment Authority (the "Authority") voted to adopt a Report and Decision (the "Report and Decision") on the Application ("Application") of Immobiliare New England ("INE") for Approval of a Project in the Charlestown Navy Yard under Chapter 121A of the General Laws of Massachusetts and Chapter 652 of the Acts of 1960, both as then amended.

On December 10, 1984 Immobiliare New England and Barkan Properties filed an application for a Second Amendment to the Report and Decision (the "Application for the Second Amendment") requesting therein approval of Building 103 Associates Limited Partnership ("Building 103 Associates"), as a 121A entity, to undertake and develop Parcel 3A of the Project Area into approximately 112 rental apartments for the elderly, as more fully described in said Application for the Second Amendment.

On February 20, 1985, the Authority voted to adopt a Second Amendment to the Report and Decision (the "Second Amendment") which approved the development of Parcel 3A and consented to the formation of Building 103 Associates to undertake such development.

On April 18, 1985, the Authority voted to adopt a Third Amendment to the Report and Decision (the "Third Amendment") which approved zoning deviations necessary for the development of Parcel 3A.

I. The Application approved by the Report and Decision contained an Exhibit E entitled "List of Proposed Deviations to Zoning." The Second Amendment and the Third Amendment also granted additional zoning deviations as amendments to the Exhibit E attached to the Application which was approved by the Authority in the Report and Decision. INE now has applied to the Authority for further zoning deviations, which are necessary for the development of the Project Area, and in particular for the development of Phases IV, IV-A and VI-A of the Project, as designated in the Development Schedule appearing as Exhibit J to the the Agreement between INE and the Authority dated December 7, 1978, (the "Agreement"), as amended by the First Amendment to the Agreement dated July 12, 1984 (the "Amendment").

After consideration of such proposed zoning deviations, the Report and Decision, as amended to date, is hereby further amended and revised by inserting before the last paragraph on Page 10 thereof the following paragraph:

"Notwithstanding the zoning deviations set forth in the Report and Decision, Section K, entitled "Deviations," as amended to date, to the contrary, and in addition to all relief and deviations from zoning and other codes, ordinances, or regulations in effect in Boston afforded by the Report and Decision, as previously amended, the Authority hereby approves each and every one of the zoning deviations as listed below and finds that both deviations previously granted and the following additional deviations are necessary for carrying out of the development of Parcels 3B1, 3C1, 3C, 3J, 3E, 3F, 3G, 3H, 3J and 3K of the Project Area and therefore are granted without substantially derogating from the intent and purpose of the applicable laws, codes, ordinances and regulations.

The following deviations from the Boston Zoning Code are granted:

Section 25-5
Flood Hazard Districts
Regulations

Required:

In the case of a building that lawfully exists, the Board of Appeal's permission is required for reconstruction, structural change or extension thereof.

Deviation:

A variance from the provisions of Article 25 permitting the construction, extension, reconstruction or restoration of a structure, or of a structure in a district which is listed in the National Register of Historic Places or which has been designated by the Boston Landmarks Commission under the provisions of Chapter 772 of the Acts of 1975.

Section 8-2, Allowed Uses,
Section 8-4, Forbidden Uses,
and Use Table, Section 8-7.

Required:

Office uses (Table of Uses Section 8-7 Use Items 39, 39A, 40, 41, 42) are either forbidden or allowed conditionally.

Deviation:

Permit use of 9 units of commercial space totalling in the aggregate not more than 13,000 gross square feet of area on Parcels 3G and 3H.

Section 8-2, Allowed Uses,
Section 8-4, Forbidden Uses,
and Use Table, Section 8-7.

Required:

Marina, boat storage, and similar uses are not expressly permitted.

Deviation:

Permit development of a marina, and customarily related uses, including maintenance of an ancillary or accessory structure to service the marina, on Parcels 3B1, 3C1, 3C, and 3J

Section 8-2, Allowed Uses,
Section 8-3, Conditioned
Uses, and Use Table,
Section 8-7.

Required:

A parking garage is allowed only as a conditioned use.

Deviation:

Permit use of the structure on Parcel 3K as a parking structure containing not more than 200 spaces.

II. The Authority also approves and consents to the reconfiguration of the Parcels in Phases IV, IV-A, and VI-A of the Project on Parcels 3E, 3F, 3G, 3H, 3K, 3B1, 3C1, 3C, and 3J as they are shown on one or more of the following plans:

"Phase II Master Deed Plan, Shipway Place, Charlestown, MA, Scale 1:480, prepared by Survey Engineers of Boston, dated____,"

"Parcels 3B, 3B1, 3C and 3C1 Subdivision Plan of Land in Charlestown, MA., Suffolk County Boston Naval Shipyard," dated 19 September 1984, Rev. 27 February 1985 by Survey Engineers of Boston."

III. All of the other provisions of the Report and Decision as amended heretofore, remain in full force and effect.

SVS-0124/I

Application
of Immobiliare New England for a
Fourth Amendment to the
Report and Decision of the
Boston Redevelopment Authority
Concerning the Approval of a Project in the
Charlestown Navy Yard
Under Chapter 121A of the
General Laws of Massachusetts and
Chapter 652 of the Acts of 1960, Both as Amended

Immobiliare New England ("INE"), a Massachusetts joint venture, hereby applies to the Boston Redevelopment Authority ("BRA") for approval by the BRA (acting pursuant to Chapter 652 of the Acts of 1960 and Chapter 121A of the General Laws of Massachusetts) of the Fourth Amendment to the BRA's Report and Decision (the "Report and Decision") adopted April 13, 1978, approving INE's application for approval under those laws of a project in the Charlestown Navy Yard.

INE has been designated by the BRA as a developer of certain portions of the former Naval Shipyard at Charlestown, Boston. On December 7, 1978 the BRA and INE executed an agreement (the "Agreement") concerning development in the Navy Yard. The Agreement was amended by document dated July 12, 1984 (the "Amendment"). Included as part of the Amendment was a revised Exhibit J to the Agreement, entitled "Development Schedule" (Immobiliare New England Activities).

INE seeks this Fourth Amendment to the Report and Decision in conjunction with its development of Phases IV, IVA and VIA of the project, as designated in the Amendment. These phases, as last approved by the BRA when it executed the Amendment, involve construction of residential townhouse units on Parcels 3E and 3H, related open space on parcel 3F, a parking structure on parcel 3K, office space and storage on parcel 3H, and a public pedestrian walkway on parcel 3G. In addition, the Amendment approved development of a Marina and a related public pedestrian walkway on Parcels 3B1, 3C1, 3C and 3J.

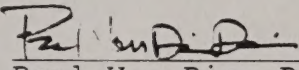
One purpose of the proposed Fourth Amendment is to secure formal BRA approval of the current configurations and areas of the parcels in these Phases. These current configurations and areas, which vary to some extent from those shown on Exhibit A to the Agreement, are consistent with the conveyances of these parcels from the BRA to INE that has taken place in accordance with the Agreement and the Amendment.

The second purpose of this application is to secure the approval of the BRA for certain deviations from the provisions of the Boston Zoning Code that apply ordinarily in the H-2-U zoning district in which these parcels lie. The requested deviations are of two varieties. First, use requirement deviations are requested for the office use of approximately 12,660 square feet of space within the Shipways Two (parcel 3H) development, use of the existing structure (on Parcel 3K) as a parking garage, and for marina use of the Phase VI-A Parcels (Pier 8 development; Parcels 3B1, 3C1, 3C, and 3J.) These uses have been passed on favorably by the BRA in adopting and executing the Amendment.

The second variety of requested deviation concerns the location of some of these parcels within a Flood Hazard District, as defined in Article 25 of the Boston Zoning Code. All new construction on the Phase IV and IV-A parcels (Shipway One and Two) will, according to INE's engineers, result in lowest floor levels at or above the base flood elevation. The only deviation requested, therefore, is to permit reconstruction and extension of the existing structures on the parcels.

Respectfully submitted:

IMMOBILIARE NEW ENGLAND,
a Massachusetts joint venture,

By: 
Paul Van Dien Davis,
Project Director

SVS-0125/I

